

# **EXHIBIT 71**

C. Gething

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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DEXIA SA/NV, DEXIA HOLDINGS, INC.,  
FSA ASSET MANAGEMENT LLC and  
DEXIA CREDIT LOCAL SA,

EFC Case

Plaintiffs,

No. 12-cv-1761 (JSR)

vs.

BEAR STEARNS AND CO., INC., THE  
BEAR STEARNS COMPANY, INC., BEAR  
STEARNS ASSET BACKED SECURITIES I  
LLC, EMC MORTGAGE LLC (f/k/a EMC  
MORTGAGE CORPORATION), STRUCTURED  
ASSET MORTGAGE INVESTMENTS II, INC.,  
J.P. MORGAN MORTGAGE ACQUISITION  
CORPORATION, J.P. MORGAN SECURITIES  
LLC (f/k/a JPMORGAN SECURITIES, INC.),  
WAMU ASSET ACCEPTANCE CORP., WAMU  
CAPITAL CORP., WAMU MORTGAGE  
SECURITIES CORP., JPMORGAN CHASE & CO.,  
and JPMORGAN CHASE BANK, N.A.,

Defendants.

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VIDEOTAPED DEPOSITION OF CHRISTOPHER M. GETHING

New York, New York

Thursday, January 31, 2013

Reported by:

THOMAS A. FERNICOLA, RPR

JOB NO. 57720

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2 Q. No, I understand. And just to  
3 clarify, I mean, the pricing of a pool of loans  
4 is not just based on the coupon; right?

5 A. Correct.

6 Q. It's based on many, many inputs;  
7 correct?

8 A. Correct.

9 Q. And all that I'm trying to understand  
10 is whether -- and I think you've said this.  
11 Maybe you said this and we just  
12 miscommunicated, so let me withdraw my comment  
13 and ask you a question.

14 Part of your own assessment of the  
15 quality of the loans going into any pool that  
16 you may be purchasing would typically include  
17 understanding the underwriting guidelines  
18 applicable to those mortgages; right?

19 A. Part of it. But, more importantly,  
20 would be whether or not those underwriting  
21 guidelines were adhered to.

22 Q. Why is that?

23 A. Because if they're not adhered to,  
24 then they don't meet those guidelines, do they?

25 Q. And why does that matter?

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2 A. Because if I'm buying that pool, I  
3 want to ensure that what we're paying for is,  
4 in fact, consistent with what we've been --  
5 what has been described to us in the disclosure  
6 materials.

7 Q. Okay.

8 And do you have any estimate during  
9 the '04 to '07 period of how many whole loan  
10 acquisitions you oversaw?

11 A. I don't recollect.

12 Q. Okay.

13 Can you give any estimate, I mean --  
14 well, any estimate either by dollar volume,  
15 loan volume, any way to say that in a typical  
16 year I would have overseen, you know, X dollars  
17 of mortgage acquisitions?

18 A. It was many hundreds of millions is  
19 only -- possibly billions comment that I can  
20 make.

21 Q. Okay.

22 A. And only because --

23 Q. That's the magnitude of it. It may  
24 even be -- it's not 10 billion; right?

25 A. It's - could have been much more.

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2 generally confirmed to me that these processes  
3 were adhered to, consistently I might add.

4 Q. Okay.

5 But what you're confirming is that  
6 these processes were adhered to. My question  
7 is different.

8 Is the only way that you determined  
9 that these processes were themselves reasonable  
10 is your own view of what's reasonable; correct?

11 A. I have -- yes. I have a view of what  
12 I would have expected to be reasonable. And,  
13 again, using the materials that were made  
14 available to me, I determined that what they  
15 referred -- what they've told me was, in fact,  
16 consistent with my understanding of industry  
17 standard and reasonableness.

18 Q. Let's understand the diligence  
19 process a little bit here.

20 My question for you is: What is the  
21 purpose of conducting diligence on a pool of  
22 mortgages in a securitization context?

23 A. You want a securitization context, as  
24 opposed to -- I want to be clear.

25 MR. SLIFKIN: I'm going to object to

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2 form.

3 MR. LEBOVITCH: Okay.

4 BY MR. LEBOVITCH:

5 Q. In other words, are you  
6 distinguishing the diligence done in the  
7 purchase context and the securitization  
8 context?

9 A. Yes, sir.

10 Q. Okay.  
11 Why don't you tell me the purpose of  
12 conducting diligence in the purchase context,  
13 and then I will ask you, you know, and you can  
14 do this at all once, how does it differ in the  
15 securitization context.

16 If you want to take the first  
17 question, go ahead.

18 A. Thank you.

19 The purpose of diligent on a whole  
20 loan purchase is to confirm by visiting the  
21 files, that description of the mortgage pool as  
22 described in the trade document, which is  
23 usually a trade ticket, in fact, are there.  
24 That the files themselves conform to your  
25 understanding and the material nature of the

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2 assets.

3 Q. And what is the purpose of diligence  
4 in the securitization context?

5 A. In the purpose -- the purpose of  
6 diligence in a securitization setting is to  
7 ensure that the material disclosures in the  
8 various disclosure documents, one of which  
9 might be a prospectus or a prospectus  
10 supplement, were, in fact, consistent with  
11 what's in the files, the loan files.

12 Q. Okay.

13 And we'll go to it, but if you can  
14 remember, when you discuss each individual  
15 defendant at the end of each discussion, you  
16 talk about the diligence they perform in their  
17 role as underwriters; correct?

18 A. Correct.

19 Q. Okay.

20 And you say that it's your view that  
21 the diligence they performed when they were  
22 serving as underwriters was substantially  
23 similar to the diligence they performed when  
24 acquiring the loans; right?

25 A. What that means -- it has to be

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2 clarified. What that means is that the process  
3 of using a vendor, picking a sample, evaluating  
4 the loans, resolving many of the loans --

5 Q. Uh-huh.

6 A. -- that and filing a report, the  
7 grades, the whole thing, that's what I'm  
8 referring to. So, yes, if that's what you  
9 mean, yes.

10 Q. Is the diligence process a means by  
11 which the banks confirmed that the loan tape  
12 provided to rating agencies accurately  
13 reflected the loans that were in the pool?

14 A. If you'll allow me to --

15 Q. You can answer and then you can talk  
16 about it.

17 A. It's -- the reason I was hesitating  
18 is that, in part, that's true.

19 Q. So why don't you explain to me what  
20 part's true and what part's wrong.

21 A. The data tape consists of upwards  
22 of -- it depends, but let's just say for  
23 argument's sake, 50 to 75 data fields. A  
24 goodly portion of them consist of what we call  
25 the money terms of the mortgage, and the



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2 it be done, and the answer is it could be done.

3 Q. You said earlier, when I asked for  
4 circumstances in which it would not be  
5 appropriate to securitize a loan, you used the  
6 phrase "I could go on and oh."

7 So you've identified one example,  
8 which is that they didn't get a mortgage;  
9 right?

10 A. Okay.

11 Q. Now, go on and on.

12 A. If you're asking me, you are, you're  
13 asking me to comment on whether or not  
14 documentation that's missing is an appropriate  
15 loan, if it's missing, is it an appropriate  
16 loan to securitize.

17 And the vast preponderance of  
18 documents that go missing or loans that have  
19 documents that go missing can, in fact, be  
20 securitized because there's a remedial process  
21 that is undertaken by the seller to go out and  
22 obtain the documents missing.

23 So I don't have reams -- if I said on  
24 and on in the context of there are many, many  
25 types of loans that you should securitize if

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2 they're not a true mortgage, no, I don't -- I  
3 shouldn't have said that.

4 But what I am saying is that it is  
5 possible to securitize a mortgage if it's  
6 missing a document. It depends on what the  
7 document is, it depends on the ability to cure  
8 it, and so on.

9 Q. How about if it's fraudulent or it  
10 appears to be fraudulent?

11 A. I can't say -- appears to be  
12 fraudulent means to me it's not fraudulent.  
13 It's only fraudulent in the event that someone  
14 has had a gain on that -- on that loan and you  
15 can prove it, and it has to be material. And  
16 I'm not an expert on fraud.

17 Q. Okay.  
18 Was the diligence process that's  
19 industry standard concerned with determining if  
20 loans to be securitized were the product of  
21 fraud?

22 A. It was a concern.

23 Q. Okay.

24 And, in fact, the diligence process  
25 is supposed to concern itself with whether the

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2 loans being securitized were the product of  
3 fraud; correct?

4 A. It's very difficult in a diligence  
5 process that we've described thus far to  
6 confirm there's fraud on the part of the  
7 borrower, which I presume you mean.

8 Q. Well, what about if the file  
9 indicates that someone's income was overstated,  
10 is that a problem?

11 A. How are you proving it? I have to  
12 ask a question. Because unless and until there  
13 is proof that the borrower has overstated their  
14 income, there is no overstated income.

15 Q. Does the due diligence process have  
16 any function to assess whether someone's  
17 representation about income was not reliable?

18 A. They had alternative ways to vett the  
19 stated income as provided by the borrower.

20 Q. Was it important to try to assess the  
21 reasonableness of a borrower's stated income?

22 A. Yes.

23 Q. Why?

24 A. Because it went to whether or not he  
25 had the ability to make the repayments.